

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cassandra Fenkel	Team: Squad #6	CCRB Case #: 201900539	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 01/04/2019 12:59 AM	Location of Incident: South East Corner 94th Street and Grand Central Parkway		Precinct: 115	18 Mo. SOL 7/4/2020	EO SOL 2/18/2021
Date/Time CV Reported Thu, 01/17/2019 7:34 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 01/17/2019 7:34 PM		
Complainant/Victim	Type	Home Address			
Subject Officer(s)	Shield	TaxID	Command		
1. POM Joseph Napolitano	21595	952044	HWY 03		
Officer(s)	Allegation			Investigator Recommendation	
A.POM Joseph Napolitano	Abuse: Police Officer Joseph Napolitano searched § 87(2)(b)'s recording device.				

Case Summary

On January 17, 2019, § 87(2)(b) filed this complaint via the CCRB's online website.

On January 4, 2019, at approximately 12:59 a.m., § 87(2)(b) was driving on the Grand Central Parkway near 94th Street in Queens when she was pulled over by PO Joseph Napolitano of Highway District 3 for an unsafe lane change and placed under arrest for driving while intoxicated. PO Napolitano allegedly searched § 87(2)(b)'s cell phone (**Allegation A: Abuse of Authority**, § 87(2)(g)).

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

There is no video evidence in this case.

Findings and Recommendations

Allegation A – Abuse of Authority: Police Officer Joseph Napolitano searched § 87(2)(b)'s recording device.

§ 87(2)(b) (Board Review 02) testified that she was driving home from dinner when she was pulled over by PO Napolitano shortly after merging onto the Grand Central Parkway. § 87(2)(b) pulled over immediately. PO Napolitano approached § 87(2)(b)'s front driver's side window and asked where she was coming from. § 87(2)(b) stated that she was coming from dinner and acknowledged consuming two drinks. PO Napolitano ordered § 87(2)(b) to exit her vehicle and instructed her to perform a sobriety test which involved looking at a light. § 87(2)(b) was placed under arrest for driving while intoxicated and put into the backseat of PO Napolitano's vehicle. § 87(2)(b) approximated that PO Napolitano's vehicle was parked eight feet behind her vehicle. PO Napolitano returned to § 87(2)(b)'s vehicle, entered it, and sat inside for approximately 30 minutes until an additional unit arrived. During this time, § 87(2)(b) observed PO Napolitano lean toward her front passenger's seat, where her purse and cell phone were located, but could not otherwise distinguish what PO Napolitano was doing inside her vehicle. Approximately two days after her arrest, § 87(2)(b) went into her photographs on her Samsung LG cell phone, at which point she noticed a "selfie" of PO Napolitano (Board Review 03). Aside from this photograph, § 87(2)(b) had no other indication that PO Napolitano accessed the contents of her phone. § 87(2)(b) did not have any password on her cell phone and testified that it therefore could be accessed by anyone.

PO Napolitano (Board Review 04) testified that he arrested § 87(2)(b) for driving while intoxicated and placed her into his vehicle. § 87(2)(b) stated that she needed to call her husband and her union delegate because she was a § 87(2)(b). PO Napolitano asked § 87(2)(b) if her cell phone was inside her vehicle, and noted that procedurally speaking, valuable property such as a cell phone should not be left inside a vehicle. PO Napolitano returned to § 87(2)(b)'s vehicle, retrieved her cell phone from the center console, and returned to his vehicle after a few minutes. PO Napolitano held § 87(2)(b)'s phone in his hand and in his lap. PO Napolitano denied that he ever accessed or searched the digital contents of § 87(2)(b)'s cell phone and denied that he took any photographs using § 87(2)(b)'s cell phone. PO Napolitano provided § 87(2)(b) with her cell phone at the 112th Precinct stationhouse, where she was permitted to call her husband and union delegate. PO Napolitano was presented with the photograph provided by § 87(2)(b).

§ 87(2)(b) (Board Review 03) and identified himself as the officer depicted in it. PO Napolitano testified that the photograph was taken in his vehicle because he recognized the red glow of its dome light. PO Napolitano had no further recollection of having ever accessed the contents of § 87(2)(b)'s cell phone and PO Napolitano was unable to explain the circumstances of the photograph.

§ 87(2)(g)

Civilian and Officer CCRB Histories

Mediation, Civil and Criminal Histories

Squad No.: #6

Squad Leader: _____

Signature	Print Title & Name	Date
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